IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 637 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE DN PATEL

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DR. PRASHANT N. KUKADAM - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR MURALI N DEVNANI for the Applicant.
Mr. Mehul Sharad Shah for respondent no.1.
Ms. Nandini Joshi, Addl. PUBLIC PROSECUTOR for Respondent no.2.

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CORAM : HONOURABLE MR.JUSTICE DN PATEL

Date : 10/08/2006

ORAL JUDGMENT

The present Revision Application has been preferred against the judgment and order dated 8th august, 2005 in Criminal Appeal No. 31 of 2003 passed by the learned Presiding Officer, Fast Track Court no.1, Ahmedabad (Rural), Ahmedabad, whereby the appeal preferred by the present applicant has been dismissed and the judgment and order of conviction and sentence passed by the learned Judicial Magistrate, First Class, Ahmedabad (Rural), Ahmedabad

in Criminal case no. 95 of 2000 dated 29.11.2003 was confirmed. By the said judgment of the trial court, the present applicant has been convicted and sentenced to undergo simple imprisonment for four months and pay a fine of Rs. 5000/-, in case of default, further simple imprisonment of 30 days for the offence punishable under section 138 of the Negotiable Instruments Act, 1881. The applicant has also been directed to make payment of Rs. 4,14,251/- to the respondent no.1-original complainant.

2. The learned advocate for the applicant submitted and the learned advocate for respondent no.1 have jointly submitted that a an amicable settlement/compromise has been arrived at between the parties and a compromise pursis is submitted to this Court which is signed by both the parties as well as their respective learned advocates. The said settlement/compromise dated 28th July, 2006 is taken on the record. By the said settlement, the present applicant has arrived an amicable settlement with the respondent no.1. An amount of Rs. 1 lac has already been deposited before this Court in pursuance of the

order dated 18th July, 2006 passed by this Court. Thereafter, further amount of Rs.25000/- was deposited as per the order dated 10th April, 2006. An amount of Rs. 1,50,000/- has been paid in cash to the respondent no.1 on 28th July, 2006 and a cheque for the amount of Rs. 65000/- dated 5th August, 2006 was given to the respondent no.1. The learned counsel for respondent no.1 submitted that the cheque of Rs.65000/- has been deposited in the bank and has been honoured by the bank and in view of this compromise pursis, the respondent no.1 has settled all the dues, for the amount stated in the compromise pursis. Both the learned advocates submitted that in view of the provisions of section 147 of the Negotiable Instruments Act, 1881, the offence may be compounded and the conviction and sentence awarded by both the courts below may be quashed and set aside in view of the compounding of the offence.

3. In view of th compromise pursis and the payment received by respondent no.1, the judgment and order dated 29th November, 2003 in Criminal case no. 95 of 2000 passed by the learned Judicial Magistrate,

First Class, Ahmedabad (Rural), Ahmedabad and confirmed by the learned Presiding Officer, Fast Track Court no.1, Ahmedabad (Rural), Ahmedabad vide judgment and order dated 8th August, 2005, in Criminal Appeal No.31 of 2003 are hereby quashed and set aside. The Court is satisfied as to settlement. It has been arrived at without undue influence, coercion or threat. Towards full and final settlement, the respondent no.1 has received the amounts referred to in the compromise/settlement. Therefore, in view of section 147 of the Act, 1881, the impugned orders are quashed. Rule made absolute accordingly.

(D.N.Patel,J)

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